

ARSON IN THE FIFTH DEGREE
Penal Law § 150.01
(Committed on or after Nov. 1, 2001)

The (*specify*) count is Arson in the Fifth Degree.

Under our law, a person is guilty of Arson in the Fifth Degree when he or she intentionally damages property of another without the consent of the owner by intentionally starting a fire or causing an explosion.

The following terms used in that definition have a special meaning:

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY damages property by INTENTIONALLY starting a fire or causing an explosion when that person's conscious objective or purpose is to cause such damage by that means.¹

A person DAMAGES PROPERTY when that person causes the slightest damage to property. Even proof of damage short of burning, such as charring, is sufficient to establish damage.²

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (*date*), in the county of (*county*), the defendant (*defendant's name*), damaged the property of (*specify*) without the owner's (*specify*) consent; and,
2. That the defendant did so intentionally by

¹See Penal Law §15.05(1).

²See *People v McDonald*, 68 N.Y.2d 1 (1986).

intentionally starting a fire [or causing an explosion].

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.